

# 648 KENNETH HAHN HALL OF ADMINISTRATION

500 WEST TEMPLE STREET

COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

LOS ANGELES, CALIFORNIA 90012-2713

JOHN F. KRATTLI County Counsel

August 29, 2012

TELEPHONE (213) 974-1861 **FACSIMILE** (213) 229-9924 TDD (213) 633-0901

TO:

SACHI A. HAMAI **Executive Officer** 

Board of Supervisors

Attention: Agenda Preparation

FROM:

PATRICK A. WU

Senior Assistant County Counsel

RE:

Item for the Board of Supervisors' Agenda **County Claims Board Recommendation** 

David Barnard v. County of Los Angeles, et al.

United States District Court Case No. CV 05-05611 GAF (FMOx) United States District Court Case No. CV 12-01717 UA (JCGx)

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

PAW:rfm

Attachments

#### Board Agenda

#### MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled <u>David Barnard v. County of Los Angeles</u>, et al., United States District Court Case No. CV 05-05611 GAF (FMOx); United States District Court Case No. CV 12-01717 UA (JCGx), in the amount of \$350,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This lawsuit alleges the use of excessive force by Sheriff's Deputies and failure to protect an inmate while incarcerated at Men's Central Jail.

#### **CASE SUMMARY**

### **INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION**

CASE NAME

David Barnard v. County of Los

Angeles, et al.

CASE NUMBER

Case No. CV05-05611 GAF

Case No. CV12-01717 VA

COURT

**United States District Court** 

DATE FILED

Complaint filed: August 2, 2005 Claim filed: February 29, 2012

**COUNTY DEPARTMENT** 

Sheriff's Department

PROPOSED SETTLEMENT AMOUNT

\$ 350,000

ATTORNEY FOR PLAINTIFF

Gregory A. Yates Law Offices of Gregory A. Yates

**COUNTY COUNSEL ATTORNEY** 

Jennifer A.D. Lehman

NATURE OF CASE

Plaintiff David Barnard alleges federal civil rights violations claiming that he was assaulted by other inmates when Sheriff's Deputies were deliberately indifferent to his safety by failing to put and keep him in protective custody while an inmate in Men's Central jail. Mr. Barnard also alleges Deputies used excessive force in arresting him.

The Sheriff's Department contends that it was not deliberately indifferent to Mr. Barnard's safety and that he did not sustain the injuries that he claimed.

However, due to the risks and uncertainties of litigation, and in light of the fact that a prevailing plaintiff in a federal civil rights lawsuit is entitled to an award of reasonable attorneys' fees, a full and final settlement of the case in the amount of \$350,000 is recommended.

PAID ATTORNEY FEES, TO DATE

\$ 351,957

PAID COSTS, TO DATE

\$ 105,562

# **Summary Corrective Action Plan**



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	Wednesday, April 9, 2003 and July 20, 2003 – November 18, 2003	
Briefly provide a description of the incident/event:		
	On Wednesday, April 9, 2003, at approximately 9:37 a.m., four Los Angeles County deputy sheriffs arrested the plaintiff for a violation of California Vehicle Code section 10851, Taking Vehicle Without Owner's Consent, California Penal Code section 245(a)(1), Assault with a Deadly Weapon, and California Penal Code section 148, Resisting, Delaying, or Obstructing Officer or Emergency Medical Technician. During the course of the arrest, the deputy sheriffs used physical force to overcome the resistance offered by the plaintiff.  The plaintiff was ultimately incarcerated in the Los Angeles County Sheriff's Department's Men's Central Jail. During the course of his incarceration, the plaintiff alleges he was physically and sexually assaulted by other inmates on two separate occasions.	

1. Briefly describe the <u>root cause(s)</u> of the claim/lawsuit;

The plaintiff alleged he was the subject of excessive force during his initial arrest and members of the Los Angeles County Sheriff's Department failed to protect him during his subsequent incarceration in the Los Angeles County Sheriff's Department's Men's Central Jail.

 Briefly describe recommended corrective actions: (Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The Los Angeles County Sheriff's Department had relevant policies and procedures/protocols in effect at the time of this incident.

The Los Angeles County Sheriff's Department's training curriculum addresses the circumstances which occurred in this incident.

Representatives from the Los Angeles County Sheriff's Department's Pico Rivera Station investigated

the use of physical force used by the four deputy sheriffs during the plaintiff's arrest. Their review

concluded that the level of physical force used by the deputy sheriffs was reasonable, necessary, and in compliance with Department policy. Due to the extraordinary length of time between this incident and the settlement of the plaintiff's lawsuit, few documents could be located. Consequently, no employee misconduct is alleged. As a result, no corrective action measures are contemplated nor recommended. Section 4-11/060.00 of the Los Angeles County Sheriff's Department's Custody Division Manual states in relevant part: "(T)he court order shall be implemented in cases where the order can easily be complied with and does not interfere with daily operations of the facility." 3, State if the corrective actions are applicable to only your department or other County departments: (If unsure, please contact the Chief Executive Office Risk Management Branch for assistance). Potentially has Countywide implications. Potentially has an implication to other departments (i.e., all human services, all safety departments, or one or more other departments). Does not appear to have Countywide or other department(s) implications. Los Angeles County Sheriff's Department Name: (Risk Management Coordinator) Shaun J. Mathers, Captain Risk Management Bureau Signature: Date: 7/23/12 Name: (Department Head) Roberta A. Abner, Chief Leadership and Training Division Signature: Cauch Ollnes 7-25-12

## Chief Executive Office Risk Management Branch

Name:	CEO	COSTANTINO	e e e e e e e e e e e e e e e e e e e
Signature:		PAM	Date: 8/8/12